

Soledad Judge Goes Off Case, Delaying Trial

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SAN FRANCISCO, Aug. 9—Deploping what he called "Alice in Wonderland" courtroom tactics, a Superior Court judge reluctantly disqualified himself today in the trial of the so-called Soledad Brothers—three black prisoners accused of slaying a guard.

The action by Judge Walter J. Carpenetti, based on a peremptory challenge from the defense, delayed the start of the trial for at least two more weeks.

He made his ruling in a courtroom atmosphere rebered even more intense by the presence of a floor-to-ceiling glass and metal barrier separating the court and defendants from the spectators.

The three defendants—George Jackson, 28, John W. Clutchette, 28, and Fleeta Drumgo, 28—seemingly ignored the glass wall as they entered and joined in a black power salute with the applauding, partisan spectators on the other side.

But their lawyers filed a motion to tumble the bullet-resistant barrier, which they said transformed a court of law into "a court of fascism."

The barrier issue never came up, however, because the judge disqualified himself. He promptly recessed the case after admonishing the defense attorneys for what he obviously believed were obstructive tactics.

"These procedures take the posture of an Alice in Wonderland story," he said, referring to the fact that the peremptory challenge came after two courts had denied a challenge for cause.

"An outside judge decided I was not prejudiced; an appellate court confirmed it. Yet this morning I am faced with this problem . . . This calls to mind the criticism by our colleagues in England of the American judicial system. We're so obsessed with procedural matters that we lose sight of substantive justice."

The defense's challenge of Judge Carpenetti was based on

the fact that his membership in the all-white Moose and Elks Clubs stamped him as a racist. John Thorne, attorney for George Jackson, the best known of the three defendants through his writings and a book of letters from prison, contended that "this is an Alice in Wonderland situation, but not created by the defendants or their counsel."

Under California law, a defendant has a single peremptory challenge of a judge, which he ordinarily must exercise on or near the time a case is set for trial. The Soledad defendants did not exercise their challenge last April, when the trial date was set. But Judge Carpenetti ruled that since the time lag between April and the start of the trial was so long, the challenge was still valid.

The courtroom barrier was constructed before the weekend, clearly in response to the history of violence surrounding the Soledad case. It is believed to be the first such barrier ever constructed in an American courtroom.

It consists of eight panels of 1 and 17/16th-inch thick glass, 5 feet in length and topped by a 3 foot-9-inch metal grill; it is set atop an existing 3-foot partition. A similar glass door, reinforced with steel and locked during court session, is at the center of the barrier.

In addition, the police tactical squad will be kept on the alert, and a separate holding cell with a public address system will be provided should any defendants get out of hand.

At a preliminary hearing last April, George Jackson slugged a deputy, sparking a melee that was put down by 50 officers.

Just a year ago last Saturday, George Jackson's brother was slain with three others, including a judge, during an abortive attempt to free prisoners and kidnap hostages at the Marin County courthouse as ransom for the Soledad Brothers.

The Soledad trio are accused of murdering a guard in California's Soledad Prison on Jan. 16, 1970, three days after three black inmates were slain by a different guard during a brawl.

The motion to remove the barrier says "once again black Americans have been caged and wrapped in the chains of modern technology."